Call to Order:

The meeting was called to order at 7:36 pm. Present were Chairman, Paul Salafia, and members, Linn Anderson, Vincent Chiozzi, Selena Goldberg, John McDonnell (arrived at 8:23 pm), and associate member Joan Duff; also present were Director of Planning Paul Materazzo, and Planner, Jacki Byerley.

Town Meeting 2009 Warrant Articles:

Warrant Article P-60 - Open Space Acquisition:

The Board took up the discussion on the private warrant article P-60 to see if the Town will appropriate the sum of \$800,000 for the acquisition of land, conservation restrictions, easements or other contractual rights for conservation purposes. Mr. Materazzo reviewed his memo to the Board dated March 4, 2009 and the proposed warrant article. Donald Cooper of 4 Eagle Way and Chairman of the Conservation Commission gave an overview of the proposed article including the general location of the parcels they would like to acquire. He also noted that it is a private warrant and not sponsored by the Conservation Commission. Mr. Cooper noted that there are four parcels which abut Fosters Pond and two different owners. Mr. Cooper noted that if they are in the process of negotiating with the owners of the parcels, and if they are able to agree to the terms of a purchase they will present the terms at town meeting. Al French, a member of the Conservation Commission, stated he would like to engage the Planning Board in a partnership with the Conservation Commission for long term planning of the acquisition of open space land. He also noted that open space acquisition is a good investment even in bad economic times. Chairman Salafia questioned if the Commission knew if other towns of equal size such as Lexington have the same amount of open space as Andover does, and questioned why the Conservation Commission was not sponsoring the article. Mr. Cooper noted that he was not sure of the amount of open space in other communities, and noted that the Town Manager recommended that this article be submitted as a private article. He noted that a private article does not need the Selectmen's approval. Mr. French stated that 20% of town land is protected open space. Howard Kessler, a Conservation member, stated that in the 2008 citizen survey people moved to Andover and stayed in Andover because of the open space areas and they unanimously support open space. The Board asked questions pertaining to the size of the parcels, the amount of uplands on the property, and access. The Board questioned whether or not the parcels could be purchased separately, and inquired if other options, such as a long term lease, had been considered. Mr. Cooper noted that the majority of the property is upland and does have access problems. Two of the parcels have been on the market for two years and the other parcels are not on the market but are available.

Warrant Article P-59 – Amend the zoning bylaw Section 6.1.by adding a temporary moratorium of the issuance of permits for and construction of wireless communication facilities:

The Board opened the public hearing on the proposed private warrant article P-59 to amend the zoning bylaw Section 6.1.by adding a new section for a temporary moratorium of the issuance of permits for and construction of wireless communication facilities. Pam Dunn, the petitioner of the article, read a prepared statement outlining reasons to support the proposed amendment. Chairman Salafia questioned if the statement was representing a group or Ms. Dunn. Ms. Dunn noted the statement was from

Warrant Article P-59 – Amend the zoning bylaw Section 6.1. by adding a temporary moratorium of the issuance of permits for and construction of wireless communication facilities (cont.):

her and noted that she wants a task force formed with members from the ZBA, town officials, member of the public, and a telecommunication attorney to review and rewrite section 6.1. The Board questioned who would pay the attorney. Ms. Dunn noted the money would come from the town. Town Counsel, Thomas Urbelis reviewed his memo to the Board dated January 26, 2009 including the Telecommunication act of 1999, the history of federal law, which takes precedence over local laws. Attorney Urbelis noted that in the 1990's, the federal government allowed moratoriums to give communities time to enact wireless bylaws but that was ceased in 2000. Attorney Urbelis noted that the Attorney General's office does not review by-laws pertaining to Federal Telecommunication Law and noted that the application of the bylaw would be prohibited. Inspector of Buildings, Kaija Gilmore, noted there were about 15 to 20 cell towers in town. The Board questioned if they could designate certain zones for towers or create an overlay district. Attorney Urbelis reviewed the existing bylaw and noted that if a wireless communications overlay district was created, a communication applicant could apply for a variance in another district and would get it if they could provide a valid study showing substantial gaps in coverage. Kevin Peters of 6 Stone Post Road noted that he has spoken with Attorney Urbelis and agrees with his opinion but thinks the bylaw needs a thorough analysis because the bylaw as it exists does not do enough to protect the town and a moratorium would allow for a complete analysis. The Board suggested that they rewrite the bylaw or keep it simple by changing a word from "shall" to "must". Mr. Peters noted that the Telecommunication Act encourages co-locations but a cell tower should not be erected in the backyard a family of three small children. Attorney Urbelis stated that a Board is prohibited from taking any adverse health effects caused by the tower into account under the federal law but a Board can regulate the area of impact if the tower were to fall down. On a motion by Ms. Anderson seconded by Ms. Goldberg the Board voted to close the public hearing on the proposed warrant Article P-59 – Amend the zoning bylaw Section 6.1.by adding a temporary moratorium of the issuance of permits for and construction of wireless. **Unanimous** (5-0)

Warrant Article P-33 – Amend the zoning bylaw Section 8.2. by adding National Flood Insurance Program:

The Board opened the public hearing on the proposed private warrant article P-33 to amend the zoning bylaw by adding section 8.2.6 National Flood Insurance Program. The Inspector of Buildings, Kaija Gilmore, reviewed her memo to the Board dated February 26, 2009 and gave the Board an overview of her meeting with the Director of Conservation, Robert Douglas and a representative of the Department of Conservation and Recreation. The purpose of the meeting was to review how the town could strengthen review and enforcement of the national flood insurance program standards for activities within the 100-year floodplain. The Board questioned the benefit of the bylaw. Ms. Gilmore noted that it would make the town eligible for the National Flood Program and homeowners would be eligible for flood insurance in the 100-year floodplain areas. On a motion by Ms. Anderson seconded by Ms. Goldberg the Board voted to close the public hearing warrant article P-33 to amend the zoning bylaw section 8.2.6 by adding a new section for National Flood Insurance Program. **Unanimous** (5-0)

180 Abbot Street:

The Board opened the public hearings that were continued from the February 10th meeting on an application by Mike Ristuccia for a Definitive Subdivision Plan and Special Permit for Earth Movement located at 180 Abbot Street. Ken Bouffard of Civil Environmental Consultants LLC representing the applicant gave an overview of the revised plans including the decrease in the number of lots in the subdivision from 5-lots to 4-lots, the roadway, layout, drainage, runoff, and the easement for the water main loop. He also submitted revised earth movement calculations to the Board and staff. Ms. Byerley reviewed her memo to the Board dated March 3, 2009, including comments from the peer review, which was received late in the afternoon, and noted that the Safety Officer requested that a sidewalk be constructed at the site. Ms. Byerley noted that property lines need to be added to the plans and reviewed her comments on the revised plans, outlined in her memo to the Board dated March 3^{rd.} She also noted the applicant should wait for comments from the town departments before revising the plans. The Board questioned if the school department has commented on the plan and if staff would check with the school department for the bus route. Attorney Andy Caffery, representing an abutter, Warren Stone, commented that four-lots are still too much for the site and that his client would rather see threelots with a driveway. Attorney Caffery also expressed concern with the traffic and noted that vehicles do not adhere to the posted 30 mph speed limit sign on Abbot Street. On a motion by Ms. Anderson, seconded by Ms. Goldberg the Board voted to continue the public hearings on an application by Mike Ristuccia for a Definitive Subdivision Plan and Special Permit for Earth Movement located at 180 Abbot Street until April 14th at 7:45 pm. **Vote** Unanimous (5-0);

It should be noted Mr. Chiozzi left the meeting prior to the Board's taking up the discussion on the street acceptance article.

Warrant Article P-34 - Street Acceptance:

The Board took up the discussion that was continued from the February 24th meeting on warrant article P-34 Street Acceptance for Black Horse Lane, Andover Country Club Lane, a portion of Canterbury Street, Cormiers Way, and a portion of Trevino Circle. Ms. Byerley reviewed her memo to the Board dated March 5, 2009, including the missing information for Black Horse Lane, and noted that she is recommending that the street not be laid out at the Selectmen's meeting. John Sarkis from Black Horse Lane noted that the punch list from DPW has been completed and he has received the OK from DPW. He also noted that the revised plans and documents have been e-mailed to Ms. Byerley and that he closed on parcel X today. He can't get a full certificate of compliance because all the homes are not built yet. Ms. Byerley noted that her recommendation is based on the Rules and Regulations because all the information has not been received. The Board reviewed Ms. Byerley memo dated March 5th and Town Counsel's memo to the Board dated February 24th. On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to forward a recommendation to the Board of Selectmen to continue the public hearing for the Black Horse Lane layout meeting to a later date to be held prior to town meeting. This should give the applicant additional time to complete the outstanding items listed in Ms. Byerley's memo to the Board dated March 5, 2009. Vote Unanimous (5-0)

Warrant Article P-34 - Street Acceptance:

On a motion by Ms. Anderson seconded by Ms. Goldberg the board voted to accept the applicant's request to withdraw the following streets from warrant article P-34: Andover Country Club Lane, a portion of Canterbury Street, a portion of Trevino Circle and Cormiers Way from warrant article P-34. **Vote** Unanimous (5-0)

Granli Drive:

Ms. Byerley reviewed her memo to the Board dated March 5, 2009 and noted the easements are necessary before the street can be taken by eminent domain. Ms. Byerley noted that the recommended easements have not been received; therefore a clean taking of the street is not possible. She recommends the street not be laid out at the Selectmen's meeting on March 16th. On a motion by Ms. Anderson seconded by Mr. McDonnell the Board voted to recommend that Granli Drive not be laid out at the March 16, 2009 Selectmen' meeting. **Vote** Unanimous (5-0).

It should be noted that Mr. Chiozzi returned to the meeting after the Board's vote.

Warrant Article P-60 - Open Space Acquisition:

The Board took up the deliberation on the private warrant article P-60 to see if the Town will appropriate the sum of \$800,000 for the acquisition of land, conservation restrictions, easements or other contractual rights for conservation purposes. On a motion by Ms. Anderson seconded by Mr. Chiozzi the Board voted to

postpone making a recommendation until more information is forth coming. **Vote** Unanimous (5-0)

<u>Warrant Article P-59 – Amend the zoning bylaw Section 6.1.by adding a temporary moratorium of the issuance of permits for and construction of wireless:</u>

The Board took up the deliberation on the proposed private warrant article P-59 to amend the zoning bylaw Section 6.1.by adding a new section for a temporary moratorium of the issuance of permits for and construction of wireless. On a motion by Ms. Anderson seconded by Mr. McDonnell the Board voted not to recommend approval of the private warrant article P-59 to amend the zoning bylaw Section 6.1.by adding a new section for a temporary moratorium of the issuance of permits for and construction of wireless as written. **Vote** (4-0-1) Mr. Salafia, Ms. Anderson, Mr. McDonnell, and Ms. Goldberg voting yes; and Mr. Chiozzi abstained.

Warrant Article P-33 – Amend the zoning bylaw Section 8.2. by adding National Flood Insurance Program:

On a motion by Ms. Anderson seconded by Mr. McDonnell the Board voted to recommend approval of the proposed private warrant article P-33 to amend the zoning bylaw section 8.2. by adding a new section for National Flood Insurance Program. **Vote** Unanimous (5-0)

Minutes:

On a motion by Ms. Anderson seconded by Ms. Goldberg the Board voted to approve the minutes for February 10, 2009 with the following changes to add to the Legends Phase II modification additional wording "for a total of 28 units" and to delete the extra word "the" under warrant article P-64 in the 3rd sentence. **Vote** Unanimous (5-0)

Hay Bale Parish:

On a motion by Ms. Anderson seconded by Ms. Goldberg the Board voted to extend the performance guarantee for Hay bale Parish Subdivision through May 1020. **Vote** Unanimous (5-0)

I-93 Update:

Mr. Materazzo updated the Board on upcoming I-93 meetings including the Scoping Meeting on March 19th at the Tewksbury Town Hall. Mr. McDonnell noted that these are critical meetings to attend and it's at these meeting that the State takes into consideration comments people raise. Mr. McDonnell also noted that you do have 30 days to submit comments after the public hearing.

Green Advisory Board

Mr. Materazzo updated the Board on the new Green Advisory Board that was formed and their role to the community, and to town departments and town boards.

Adjournment: The Board voted to adjourn the meeting at 9:51 p.m.